

POST MORTEM INQUIRY

PROGRESS REPORT

TO THE MINISTER FOR HEALTH AND CHILDREN

2nd October, 2002

Anne Dunne, Senior Counsel
Chairman

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1. INTRODUCTION

As the Inquiry has now been operational for some eighteen months, it is appropriate, at this stage, to deliver this progress report as to its work to date and to indicate its future programme.

2. TERMS OF REFERENCE

The Inquiry is of the view that the Terms of Reference are wide ranging and comprehensive. The issue of organ retention is not one which may be examined properly in isolation and involves consideration of many issues, most notably the legal context within which the matters arise. The issue is one which needs to be seen in its proper context so that it may be properly and fully understood. In this regard the following is the approach which has been adopted by the Inquiry to its work.

1. The Inquiry was asked to review all post mortem examination policy, practice and procedure in the State since 1970 by reference to prevailing standards both in and outside the State. Organ removal and retention is a feature of the post mortem examination as is the subsequent storage and disposal of retained organs. The Inquiry therefore, is reviewing the background against which past practices operated and how these impacted on present practices. The Inquiry is charged with reviewing these matters by reference to the prevailing standards both in and outside the State. It has done, and continues to do, a great deal of research on the information available at various stages throughout the period under review both in national and international publications.
2. The Inquiry is reviewing particularly the issues arising in relation to organ removal, retention, storage and disposal. While many

may concentrate on the issue of organ retention alone, this would be to view only one part of a process. The removal, retention, storage and disposal of organs at post mortem examination is a complete cycle which is being reviewed in its entirety by the Inquiry and each component part is of importance to all involved in the process.

3. A detailed series of questions has been put to each hospital in the State to elicit the relevant information to permit the Inquiry to continue its review of the positions of all hospitals. The Inquiry has received many replies from hospitals and the position in this regard will be considered later in this progress report.
4. The Inquiry is also examining, in particular, these matters in relation to the hospitals listed in the Appendix to the Terms of Reference. Moving from the general to the particular, the Inquiry will have a knowledge of nationwide experience, which would include the experiences of the hospitals listed in the Appendix and will then examine each of these hospitals in particular.
5. The Inquiry is addressing the past post mortem practices adopted by hospitals and the manner in which they were carried out. In relation to these matters, the Inquiry has sought information from hospitals and has already obtained significant information from some of those hospitals.
6. The Inquiry is taking account of best practice regarding post mortem examinations in and outside the State. The Inquiry will take expert evidence in this regard and this will be compared and contrasted with the information provided by hospitals and practitioners and also with information available to parents/next of kin, hospitals, practitioners and their professional organisations at various times.

7. The Inquiry is examining the hospitals' policies and practices relating to the obtaining of consent from parents and next of kin for post mortem examination, organ removal, retention, storage and disposal and will assess this in the light of the evidence of parents.
8. The Inquiry is examining the hospitals' procedures and practices relating to retained organs and is examining the reasons for such retention.
9. The Inquiry is examining the hospitals' management of the storage and ultimate disposal of retained organs, including record keeping in respect of such retention, storage and disposal, both pre and post 2000.
10. The Inquiry is examining any other arrangements made by hospitals relating to such retained organs.
11. The Inquiry is examining such arrangements as may have existed between hospitals or their staffs, with pharmaceutical companies in relation to retained organs, with particular, though not exclusive reference, to the removal of pituitary glands taken during post mortem examination in the 1970's and 1980's. The Inquiry has already contacted pharmaceutical companies and has obtained co-operation and information from the relevant companies and inquiries are continuing.
12. The Inquiry is reviewing the nature and appropriateness of the overall response of hospitals to parents and next of kin in the context of the matters raised in the Terms of Reference. The Inquiry is examining the approach of hospitals to parents and next of kin at the various times in relation to post mortem examinations, which are:

- (a) the time of death, the request for consent for post mortem examination and the immediate aftermath, including information given to parents and next of kin concerning the post mortem report, and
- (b) the response of hospitals in the period following the public disclosure that organs had been removed and retained.

The submissions of both hospitals and parents in this regard continue to be obtained.

- 13. The Inquiry may investigate a specific case in any hospital as it deems appropriate.
- 14. The role of Coroners in the context of the policy, practice and procedure governing the removal, retention, storage and disposal of organs after post mortem examinations falls to be considered by the Inquiry in accordance with its Terms of Reference. All Coroners within the State have been contacted by the Inquiry.
- 15. The Inquiry has the discretion to examine any other relevant matters which arise in the course of its work relating to post mortem examination, policy, practice and procedure in the State since 1970.

This Inquiry is not an inquiry into a single hospital or a single issue. When the work is completed, the Inquiry will be in a position to state that a thorough review and analysis of all issues outlined in summary above and, other matters incidental to its work, will have been conducted and each element will, in accordance with the Terms of Reference, be placed in its proper context. The report of the Inquiry will set out the events of the past and will look to the future in respect of all matters.

The Inquiry, to succeed in its work, requires the co-operation of all potential participants. The hospitals have been requested to answer many questions and to produce documentation to the Inquiry, thereby forming the basis of the work of the Inquiry.

The Inquiry acting in its non-statutory capacity has been fortunate in that the majority of participants have felt that the structure of the Inquiry is sufficient to permit them to co-operate and that the procedures which have been put in place by the Inquiry have enabled the participants to give their fullest co-operation. The Inquiry has received co-operation from many parents and next of kin, many hospitals, Coroners, pharmaceutical companies and other interested persons and organisations.

The Inquiry appreciates that there are many reasons why it may take a participant a considerable period of time to prepare the information sought. For example, in the case of parents and next of kin, there may be an emotional issue in relation to the obtaining of further information. In relation to hospitals, there may be an issue of staffing and funding to organise and review documents spanning over thirty years. While the Inquiry has urged all participants to make haste in preparing the necessary documentation, it appreciates that the matters referred to in the Terms of Reference, of their nature, require considerable time and attention. Even if the Inquiry had the power to place mandatory time limits upon the delivery of information or documentation it is doubtful if same would make the task a lesser one, or substantially increase the speed of response in most cases.

That the Inquiry has already considered in excess of 150,000 pages of documentation is a testament to the willingness of many participants to assist the Inquiry.

As required by the Terms of Reference, when the work of the Inquiry is completed, it will be in a position to furnish the Chairman's Report to the Minister for Health and Children. The Inquiry intends to finalise its work as quickly as possible. However, the Inquiry understands that the task in hand

is both an important task and a very wide-ranging task. For its Report to be of value, both as a review of what has occurred in the past and a platform for future practice, the work of the Inquiry must be thorough and extensive, and therefore time consuming.

The Terms of Reference, presented by the Minister for Health and Children, govern the work of the Inquiry. The extent and scope of those terms is the single most important influence on the manner in which the Inquiry is conducted. It is the opinion of the Inquiry that the proper conduct of its work, both in terms of affording all participants a proper opportunity to be heard and of considering the many matters encompassed by the Terms of Reference, requires that it will be some considerable time before it is possible to present its report to the Minister for Health and Children.

3. TERMS OF REFERENCE AND INTERPRETATION:

Upon establishment, the immediate work of the Inquiry related to the development of an approach to deal with its wide-ranging Terms of Reference. Those terms, together with the Chairman's interpretation were published in the National Press on the 23rd day of March 2001. (See Appendix 1)

4. SCOPE OF THE INQUIRY

A significant feature of the Inquiry is that it was established on a non-statutory basis and is, therefore, dependent upon the voluntary co-operation of the many potential participants in its work.

In addition, the Inquiry commenced as a "clean sheet" Inquiry without being in possession of any briefing papers and the only relevant documentation available to it was the Interim Report of the Bristol Royal Infirmary Inquiry

and the Royal Liverpool Children's Inquiry which became available on the 30th of January 2001, after the Inquiry was established.

A notable feature of the Inquiry to date, notwithstanding the non-statutory basis upon which it was established, has been its ability to elicit support and actual co-operation from a multiplicity of participants. Many of those participants have already translated their offers of co-operation into actual assistance to the Inquiry. Many of the remainder are still at the stage of preparation for the Inquiry but have given assurances in relation to their assistance to the Inquiry which are likely to be fulfilled in the near future. To date, no hospital has notified the Inquiry of its definite unwillingness to co-operate although some have raised legal issues with the Inquiry in respect of same which may be pre-conditional to co-operation or to the extent of co-operation being offered. An indication of the scope of the Inquiry might be more properly gained from a consideration of the following: -

- i) The Inquiry covers all hospitals in the State which presently number 201.
- ii) The primary hospitals named and/or identified in the Terms of Reference number 11 and these are hospitals which are the subject of specific detailed examination in relation to the matters dealt with in the Terms of Reference. It may also be that other hospitals might also be treated to a detailed examination should the circumstances warrant such examination.
- iii) The Inquiry has to date received 402 written submissions from parents of children and next of kin of adults upon whom post mortem examinations were conducted and it is expected that further submissions will continue to come to the Inquiry.

- iv) Consideration of the difficulties in relation to the medical certification of the cause of death was also included in the tasks to be undertaken by the Inquiry;

5. CONSULTATIONS

By reason of the fact that the Inquiry has no powers of compellability, either in relation to the production of documents or information or in respect of the attendance of witnesses before it, it was necessary, in order to advance the work of the Inquiry, to obtain as wide a range of consensus and agreement between all potential participants, as to the procedures to be adopted, so as to assure those participants that they would be treated with fairness and equality.

As part of the early work of the Inquiry and in order to assess the extent to which the Inquiry would receive co-operation from potential participants, the legal team to the Inquiry held informal meetings with many of those participants in order to explain how it was proposed to proceed, to seek co-operation, and to discuss any possible difficulties which might arise in the course of the Inquiry's work in relation to individual participants or groups of participants. In order to encourage as frank a response as possible from participants the Chairman of the Inquiry was not involved in these informal consultations.

The Inquiry's legal team is of the opinion that the consultations were constructive and helpful for all concerned, and also were important for the advancement of the work of the Inquiry. It is to be acknowledged that the Inquiry continues to benefit from those early consultations

6. **DRAFT PROCEDURES**

Arising out of the aforesaid informal discussions a Draft Memorandum on Procedures was prepared and issued to the principal participants in May 2001.

The date for the receipt of responses to the draft Memorandum on Procedures document was the 28th of May 2001. The Inquiry received substantive replies, many from legal firms representing the principal participants. In the consideration of those responses, it became clear that there was no uniformity in respect of the issues raised in relation to the draft procedures. The Inquiry was, and remains, of the view that it was necessary, in the first instance, to establish procedures which would be generally acceptable to all participating parties. To that end a document entitled “Response to Submissions on the Memorandum on Procedures” was issued to principal participants on the 5th July 2001 which sought to identify the principal issues raised in the submissions and these are still of relevance to the work of the Inquiry.

The response to the draft Memorandum on Procedures confirmed the necessity of establishing a wide consensus for the work of the Inquiry, having regard to its entirely voluntary nature.

The Inquiry then permitted further submissions and finally, on the 3rd day of August 2001, the Memorandum on Procedures was issued for signature and return by all participants. (see Appendix II).

The Inquiry also answered individual requests for clarification from hospitals and other participants and from firms of solicitors representing principal participants. It must be added that it has not always been possible to satisfy, in every detail, all participants making such requests for clarification.

7. **RESPONSE TO THE MEMORANDUM ON PROCEDURES**

It is not the intention of the Inquiry, nor would it be appropriate, to identify at this stage the individual positions of the various participants in relation to the procedures adopted by the Inquiry but all have promised co-operation with the Inquiry, save subject to legal and other consideration.

This aspect of the Inquiry's work was both detailed, time intensive, and prolonged, given the number of participants involved in the process. Although that process was brought to a close on the 3rd of August 2001, when the Memorandum on Procedures was issued, various participants continued to express concerns and the Inquiry has dealt with these in so far as it could do so. All participants who received a copy of the Memorandum on Procedures were requested to sign it and return it to the Inquiry to indicate their acceptance of those procedures.

- (a) To date, 62 signed Memoranda from hospitals have been received.

From the 11 hospitals named or identified in the Terms of Reference, 6 signed Memoranda have been received by the Inquiry. However, notwithstanding that some hospitals have declined to sign the Memorandum and continue to voice legal and other concerns in relation to the manner in which the Inquiry was constituted and operates, the Inquiry has received actual co-operation from many hospitals, while others have indicated their intention to prepare and furnish the necessary documentation despite their reservations. The Inquiry continues to press these latter hospitals to furnish the documentation without further delay.

- (b) A total of 65 parents and next of kin who have made submissions have signed the Memorandum on Procedures. Others have been advised, apparently, not to sign the Memorandum on Procedures and have declined to do so at present. Notwithstanding this situation,

parents and next of kin have demonstrated their co-operation with the Inquiry.

To date, having regard to the level of co-operation and assistance already furnished, the Inquiry does not at present regard the failure on the part of any participant to sign and return the Memorandum on Procedures, as having actually impeded its ability to conduct its ongoing work but this is a matter which is being kept under close and constant review.

8. SUBMISSIONS FROM PARENTS AND NEXT OF KIN

The Inquiry opened its offices to the public at Parnell Square East, Dublin 1, on the 5th day of March 2001, having received its first submission on the 27th of February 2001, and is still receiving submissions from parents, next of kin and other persons with an interest in the work of the Inquiry. The Inquiry has given detailed consideration to each submission received and has corresponded with those making submissions. The Inquiry is appreciative of the work which has been done by those making submissions.

9. STAGES IN THE WORK OF THE INQUIRY

The headings of work of the Inquiry to date are as follows and further details of this work are set out in paragraphs 11 and 12.

1. The Preparatory Work – March 2001 – September 2001

The work of the Inquiry during this period included: -

- i) The consideration and preparation of detailed Schedules of questions to be sent to all hospitals in

- the State seeking information and documentation related to the issues raised by the Terms of Reference;
- ii) The consideration of individual submissions of parents and next of kin;
 - iii) The consideration of submissions from other individuals and parties;
 - iv) The identification of relevant literature;
 - v) The identification and communication with participants who might be able to assist the Inquiry. These participants included Coroners, all pharmaceutical companies, all hospitals, all government departments, educational institutions, representatives of doctors, nurses and other hospital personnel, religious groups, voluntary organisations who assist parents who have lost a child, and relevant medical professional organisations in Ireland and Britain among others;
 - vi) Visits to hospitals both in Ireland and England.
 - vii) Consulting with the Royal Liverpool Children's Inquiry legal team and Chairman;
 - viii) Analysis of written submissions from parents/next of kin and preparation of hearings of oral submissions;
 - ix) Informal meetings with participants;
 - x) Memorandum on Procedures – drafting and corresponding with participants.

2. Second Period

October 2001 – March 2002

- i) In the six month period the Inquiry spent considerable time preparing for and taking oral submissions from parents and next of kin in support of their prior written submissions. Generally speaking, it is clear that many have found the task of preparing submissions to be extremely stressful in that they are obliged to revisit and to deal with painful events in their lives. By reason of the distressing nature of the subject matter of the Inquiry, it was considered proper to provide sufficient time to the parents and next of kin coming before the Inquiry to enable them to deal with these very difficult situations. The oral hearings have proved extremely valuable in clarifying the written submissions made by the parents and next of kin, some of whom have found it too painful to commit all details to writing. Many parents and next of kin have expressed the view that the oral hearings have assisted them in dealing with their grief in relation to the retention of organs and they have welcomed and appreciated the opportunity to be heard by the Inquiry;
- ii) Communicating with other persons and organisations to seek submissions;
- iii) Communications were advanced with all Coroners in the State;

- iv) In addition, submissions were obtained from many other participants;
- v) The Chairman attended at a Post Mortem Examination in a Dublin Hospital, to experience at first hand the conduct of a Post Mortem Examination. All necessary consents to enable her attendance were sought and obtained from the appropriate relatives;
- vi) Further visits to hospitals took place, including a visit to the United States by the Chairman to acquaint herself generally with post mortem policy, practice and procedure as it relates to the issues raised in the Terms of Reference of the Inquiry;
- vii) Research continued throughout this period;
- viii) Receipt of information and documentation from hospitals in response to Inquiry's request continued.
- ix) Receipt of information and documentation from pharmaceutical companies also continued;
- x) Meetings with statistical experts took place.

3. Third Period
April 2002 – October 2002

- i) This period has been characterised by a continuation of the hearing of oral submissions from parents and next of kin, which will be dealt with later in this report and, by the receipt of completed Schedules

from some hospitals, setting out information and furnishing documentation;

- ii) To date, the responses of the hospitals, numbering 11, named or identified in the Terms of Reference to the Inquiry's Schedules seeking information and documentation is as follows: -

a)	Replies to Schedule 1 and 2	5
b)	Replies to Schedule 2 only	1

- (iii) The response of hospitals in general to the Inquiry's Schedules seeking information and documentation is as follows:

(a)	Replies to Schedules 1 and 2	20
(b)	Replies to Schedule 1 only.	56
(c)	Replies to Schedule 2 only.	27

- (iv) Fifteen hospitals to date have been excused from further co-operation with the Inquiry on the basis that they hold no documents or information of relevance to the Inquiry and it is likely that many other hospitals may ultimately fall into this category;

- v) The Inquiry still hopes that all of the hospitals named or identified in the Terms of Reference will reply to the Inquiry's Schedules dated 11th May 2001 in the near future. However, this may be subject to, or affected by, other matters external to the Inquiry, legal and other issues arising therefrom, and also the legal consequences arising, if any, in respect of the decision of the Supreme Court in the Abbeylara case.

The Inquiry has, in relation to a small number of hospitals in this category, concerns of varying degree, as to the attitude of these hospitals to the Inquiry. It would be premature to finally assess the position at this stage. It is the intention of the Inquiry to issue an addendum to this progress report at an appropriate time.

- vi) Further information from pharmaceutical companies has been received and a large number of pharmaceutical companies have been excused as they have no information of relevance;
- vii) Further responses to requests for substantial information from Coroners were received;
- viii) Preparation of responses to hospitals consequent on their completed schedules of information took place;
- ix) Dealing with hospitals on an ongoing basis concerning the information requested by the Inquiry continued;
- x) Preparation of the Undertaking as to confidentiality and circulation to participants was carried out;
- xi) Dealing with parents/next of kin on an ongoing basis in relation to their submissions, the information the Inquiry requires and the progress of the Inquiry was a significant feature at this time.

10. ORAL SUBMISSIONS OF PARENTS AND NEXT OF KIN TO THE INQUIRY

The Inquiry commenced, in the month of October 2001, to hear the oral submissions of parents and next of kin of deceased persons upon whom post mortem examinations were conducted. These hearings were to obtain clarification and amplification of matters contained in the written submissions made by those parents and next of kin.

To date, the Inquiry has heard detailed oral submissions from 78 sets of parents and next of kin who have made written submissions, often including a number of submissions from the same family. These relate to 21 hospitals overall and, in particular, involve the following submission numbers for hospitals named or identified in the Terms of Reference, namely:

i)	Hospital A	1
ii)	Hospital B	0
iii)	Hospital C	2
iv)	Hospital D	18
v)	Hospital E	18
vi)	Hospital F	14
vii)	Hospital G	7
viii)	Hospital H	1
ix)	Hospital I	3
x)	Hospital J	2
xi)	Hospital K	2

In addition, other parents and next of kin had been invited to attend the Inquiry but were unable to do so at the relevant time.

The other work of the Inquiry has continued. This relates particularly to a continuation of research, the identification of experts who will be required and the consideration of follow up communications with hospitals, parents

and next of kin, pharmaceutical companies, coroners and many other participants.

11. **OTHER WORK**

i) **GOVERNMENT DEPARTMENTS AND STATE AGENCIES:**

The Inquiry has sought information and documentation from Government departments and State agencies and has received valuable assistance and documentation and expects continuing assistance.

ii) **IDENTIFICATION OF INDIVIDUALS AND ORGANISATIONS WHO MIGHT BE ABLE TO ASSIST THE INQUIRY:**

The Inquiry has, in a preliminary manner, identified individuals and organisations who might be able to contribute to its work and has sought submissions, information and documents from such individuals and organisations. The legal team has also had meetings with some of these persons and representatives of organisations and this work is continuing. The Inquiry has received a very worthwhile response to date.

iii) **INFORMATION FROM CORONERS:**

The Inquiry has also sought information from Coroners throughout the country and has received many submissions

to date and expects further detailed submissions in the future. These submissions require detailed consideration.

iv) **RESEARCH:**

The Inquiry's legal team is continuing its research relating to policy, practice and procedure of post mortem examinations, legal issues relating to the Terms of Reference, and sources of information in other jurisdictions including similar Inquiries carried out in those jurisdictions.

v) **VISITS TO HOSPITAL FACILITIES:**

The Inquiry has made informal visits to hospital facilities in Ireland in order to familiarise itself with these facilities. It is correct to state that the hospitals already visited by the Inquiry have been, through their staff, most co-operative and helpful and these visits have been of invaluable assistance to the Inquiry. Further visits to hospital premises will take place as and when the work of the Inquiry makes this necessary.

vii) **PHARMACEUTICAL COMPANIES**

The Inquiry has written to every pharmaceutical company in the State in relation to any special relationship which they might have or had with hospitals relevant to post mortem examinations. The response of the relevant companies relating to the issue of the procurement and use of the pituitary gland in human growth hormone treatment has been

helpful. The Inquiry is continuing to investigate all other relevant matters arising.

The Inquiry has received statements and documents and expects further information and documentation.

viii) **FOREIGN JURISDICTIONS**

The Inquiry has made visits to Northern Ireland, England and the United States in relation to the matters it has been charged with investigating. It has also been endeavouring to obtain as much information as possible without having to incur travelling costs.

12. **EXTENT OF THE TASK THAT REMAINS TO BE COMPLETED.**

i) **Submissions of Parents and Next of Kin.**

As already indicated, substantial oral submissions have been taken from 78 sets of parents and next of kin in relation to 21 hospitals within the State. There are still outstanding the oral submissions from the remaining parents and next of kin as well as those who were either unable to attend when called or whose written submissions were not sufficiently advanced to enable them to appear before the Inquiry. The extent of the task remaining is as follows: -

The oral submissions of 324 parents and next of kin who have made written submissions are still outstanding. The Inquiry must balance the wish to

give all parents and next of kin the opportunity to be heard by the Inquiry with the intention to conclude its work and be in a position for the Chairman to make her Report to the Minister as soon as possible. To put this matter in context, it is necessary to apportion these submissions to particular hospitals, although at this stage, the Inquiry does not think it appropriate to name any hospital.

ii) **Hospitals named or identified in the Terms of Reference**

Hospital A	97	Submissions
Hospital B	132	Submissions
Hospital C	3	Submissions
Hospital D	11	Submissions
Hospital E	50	Submissions

It should be noted that in the case of Hospital A, one parent has already been heard out of sequence by reason of personal circumstances. Arrangements have been made to continue taking the oral submissions of parents and next of kin from the 15th October, 2002. The taking of these submissions is extremely time consuming but is a vital element of the Inquiry for both parents and next of kin as well as for the Inquiry itself.

iii) **Evidence of Hospitals**

The Inquiry is currently reviewing submissions from hospitals received in response to its letter of 11th May 2001.

In effect, these responses constitute the first step in the investigation process. It is anticipated that further requests for statements of evidence and queries in relation to matters contained in the Schedule 1 and Schedule 2 reply documents will be made. There has been a significant delay in the delivery of responses by certain hospitals but, it must be stated that the Inquiry recognizes the extent of the work undertaken by these hospitals.

As the Inquiry has no statutory powers of compellability, it cannot make mandatory demands for responses and has constantly sought to keep its requests to the forefront of the attention of the hospitals. When requests for further information, as indicated above, are made, a reasonable time will have to be allowed for replies before the Inquiry will be in a position to take oral evidence from hospital personnel. While a suggestion might be made as to the appropriate period for responses, the Inquiry is in the hands of those supplying information as to the time limit they prescribe to make their responses.

The Inquiry will continue with the hearings of parents and next of kin who have made written submissions and will also continue to obtain further evidence.

iv) **Opportunity to Hospitals to Comment upon the evidence of individual parents and next of kin heard by the Inquiry.**

In accordance with the Memorandum on Procedures circulated to all participants in the Inquiry it will be necessary, in order to ensure fair procedures, to place before each hospital in respect of which a submission has been

made to the Inquiry, the relevant evidence of a parent or next of kin, together with all supporting materials, for the purpose of obtaining the hospitals formal responses.

It is important to note, however, that the fact that the Inquiry is charged with examining named and identified hospitals makes it necessary to hear as much relevant evidence as possible in relation to each hospital, quite apart from any general survey of the positions of parents and next of kin. This creates a very heavy workload for the Inquiry and it must be recognized that it will continue to have such an effect for a very considerable time into the future. There is, however, a clear expectation by parents and next of kin that they will be invited to attend before the Inquiry to be heard. The Inquiry is of the view that it would be less than thorough if it failed to give as many parents and next of kin as possible the opportunity to put their views personally before the Inquiry for its consideration.

v) **Circumstances where there are disputes of fact.**

The Inquiry is obliged to determine, in a formal manner in accordance with its Memorandum on Procedures, issues of factual disputes between participants.

vi) **Evidence on the Pituitary Gland Issue**

The Inquiry has received valuable submissions from pharmaceutical companies in relation to the supply of pituitary glands taken at post mortem examination in Irish hospitals in the 1970's and 1980's and the Inquiry has addressed further detailed enquiries to such companies. The

Inquiry has received replies from hospitals in relation to questions raised on this issue in the Schedule 1 and Schedule 2 documents.

When the further queries have been answered by the pharmaceutical companies, and the Inquiry has received replies from all hospitals in relation to the matter, it is anticipated that it will be necessary to obtain statements of evidence, as well as taking oral evidence in some instances, both in Ireland and abroad in order to fulfill the remit of the Inquiry. The consideration and examination of this material will be run in tandem with the many other aspects of the work undertaken by the Inquiry.

vii) **Coroners**

The Inquiry has addressed questions to all Coroners in the State and replies have been received from many of them. It will now be necessary to determine the extent to which the Inquiry requires to deal with the position of Coroners in the light of the Terms of Reference. It may also be necessary to take oral evidence on matters raised within the Terms of Reference.

viii) **International standards**

Research continues in relation to this matter. Clearly, expert evidence will be required. It is anticipated that it will be necessary to obtain statements of evidence from abroad as well as oral evidence.

ix) **Expert evidence**

It is clear that expert evidence and assistance is required by the Inquiry. It will be necessary to take oral evidence from experts.

The Inquiry expects to be in a better position to decide on the extent of the expert advice required in the near future.

x) **The Medical Certificates of Cause of Death Issue**

The work of the Inquiry in this area is continuing and further aspects of the investigation are under consideration.

14. **COMMENTS**

The Inquiry is required to deal with a multiplicity of participants and this undoubtedly has had a significant effect on the progress of the Inquiry to date and will continue to affect its work in the future.

The voluntary nature of the Inquiry made it necessary to adopt a comprehensive method of obtaining documentation and cooperation from the many participants while at the same time seeking to avoid a refusal by any participants to take part in the Inquiry. This voluntary status means that the Inquiry is not empowered to compel participants to comply with the Inquiry's requests or timescales but must accept the co-operation within the timescales that participants have offered.

A number of hospitals have raised legal issues in relation to their cooperation with the Inquiry and have sought to rely on the Abbeylara decision to postpone or delay any such cooperation. The Inquiry awaits the

Attorney General's advice in this matter through the Department of Health and Children.

It is not possible to estimate the time scale required for the completion of the work of the Inquiry and the making of its Report. It is clear, however, that the oral submissions from parents and next of kin alone will take a considerable length of time. That process, it must be understood, merely represents the first stage in the consideration of their evidence.

In addition, when it comes to a consideration of the position of each hospital, it is likely that the preparations and hearings involving these hospitals will require several weeks for each hospital, with the probability that a selected number of hospitals will involve a greater period of preparation time. Hearings will have to be carefully scheduled so as not to interfere with the safe and efficient running of the hospitals concerned and it is not possible at this stage to anticipate the length of time required for actual hearings by the Inquiry which will be held in private.

Obviously, the fundamental issues with which the Inquiry is dealing will not be capable of final determination until all the evidence is available. There is a risk of premature judgment in the absence of all relevant evidence having been considered. Therefore, this is a report on the progress of the work of the Inquiry to date rather than an Interim Report on the substantive issues which it is required to investigate and determine.

The Inquiry has requested each participant in its work to sign an undertaking as to confidentiality. The reasons for this are two fold. Firstly, it is the view of the Inquiry that its work should be conducted confidentially in order to protect the privacy of parents and next of kin participating in that work. Secondly, considerable concerns were expressed by some participants in the work of the Inquiry that the investigative work should be conducted confidentially and that submissions made or documents provided to the Inquiry should be dealt with in confidence and not be subject to premature disclosure. It is the view of the Inquiry that the co-operation of

many important participants in its work could best be secured by giving assurances of confidentiality. It was for those reasons that the provisions as to confidentiality set out at paragraphs 4, 7.7, 7.10, 7.11, 7.12 and 7.13 of the Memorandum on Procedures were included therein. It was and remains the view of the Inquiry that these provisions are in the best interests of all participants in the work of the Inquiry and have produced a greater degree of co-operation from a wider range of participants than might otherwise have been the case.

It is not intended that the undertaking as to confidentiality sought from participants should prevent family members from speaking to one another about the events which occurred to them. Nor is it intended to prevent persons who are involved in the work of the Inquiry from talking to their legal or medical advisers or to their counsellors about these matters.

It is emphasised that the information contained in a person's submission is that person's own account and that person may use such information as he or she sees fit.

The Inquiry conducts its work in private and while the Report of the Inquiry will be given to the Minister for Health and Children, and may be published by the Minister, it is considered that the investigative work of the Inquiry is best and most productively conducted in private.

This report is intended to summarise the principal aspects of the Inquiry's work to date. The proper conduct of the Inquiry requires that the substantive work of the Inquiry ought not to be disclosed in any greater detail at this stage.

Dated this 2nd day of October 2002.

Anne Dunne

Chairman of the Post Mortem Inquiry